

115TH CONGRESS
1ST SESSION

H. R. 3958

To establish a pilot program on securing energy infrastructure, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

OCTOBER 4, 2017

Mr. RUPPERSBERGER (for himself and Mr. CARTER of Texas) introduced the following bill; which was referred to the Committee on Science, Space, and Technology

A BILL

To establish a pilot program on securing energy infrastructure, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Securing Energy Infra-
5 structure Act of 2017”.

6 **SEC. 2. DEFINITIONS.**

7 In this Act:

8 (1) COVERED ENTITY.—The term “covered en-
9 tity” means an entity identified pursuant to section
10 9(a) of Executive Order 13636 of February 12,

2013 (78 Fed. Reg. 11742) relating to identification of critical infrastructure where a cybersecurity incident could reasonably result in catastrophic regional or national effects on public health or safety, economic security, or national security.

(2) DIRECTOR.—Except as otherwise specifically provided, the term “Director” means the Director of Intelligence and Counterintelligence of the Department of Energy.

(3) EXPLOIT.—The term “exploit” means a software tool designed to take advantage of a security vulnerability.

(4) INDUSTRIAL CONTROL SYSTEM.—

(A) IN GENERAL.—The term “industrial control system” means an operational technology used to measure, control, or manage industrial functions.

(B) INCLUSIONS.—The term “industrial control system” includes supervisory control and data acquisition systems, distributed control systems, and programmable logic or embedded controllers.

(5) NATIONAL LABORATORY.—The term “National Laboratory” has the meaning given the term

1 in section 2 of the Energy Policy Act of 2005 (42
2 U.S.C. 15801).

3 (6) PROGRAM.—The term “Program” means
4 the pilot program established under section 3.

5 (7) SECURITY VULNERABILITY.—The term “se-
6 curity vulnerability” means any attribute of hard-
7 ware, software, process, or procedure that could en-
8 able or facilitate the defeat of a security control.

9 **SEC. 3. PILOT PROGRAM FOR SECURING ENERGY INFRA-**
10 **STRUCTURE.**

11 Not later than 180 days after the date of enactment
12 of this Act, the Director shall establish a 2-year control
13 systems implementation pilot program within the National
14 Laboratories for the purposes of—

15 (1) partnering with covered entities in the en-
16 ergy sector (including critical component manufac-
17 turers in the supply chain) that voluntarily partici-
18 pate in the Program to identify new classes of secu-
19 rity vulnerabilities of the covered entities; and

20 (2) researching, developing, testing, and imple-
21 menting technology platforms and standards, in
22 partnership with covered entities, to isolate and de-
23 fend industrial control systems of covered entities
24 from security vulnerabilities and exploits in the most
25 critical systems of the covered entities, including—

- 1 (A) analog and nondigital control systems;
- 2 (B) purpose-built control systems; and
- 3 (C) physical controls.

4 **SEC. 4. WORKING GROUP TO EVALUATE PROGRAM STAND-**
5 **ARDS AND DEVELOP STRATEGY.**

6 (a) ESTABLISHMENT.—The Director shall establish a
7 working group—

8 (1) to evaluate the technology platforms and
9 standards used in the Program under section 3(2);
10 and

11 (2) to develop a national cyber-informed engi-
12 neering strategy to isolate and defend covered enti-
13 ties from security vulnerabilities and exploits in the
14 most critical systems of the covered entities.

15 (b) MEMBERSHIP.—The working group established
16 under subsection (a) shall be composed of not fewer than
17 10 members, to be appointed by the Director, at least 1
18 member of which shall represent each of the following:

19 (1) The Department of Energy.

20 (2) The energy industry, including electric utili-
21 ties and manufacturers recommended by the Energy
22 Sector coordinating councils.

23 (3)(A) The Department of Homeland Security;
24 or

1 (B) the Industrial Control Systems Cyber
2 Emergency Response Team.

3 (4) The North American Electric Reliability
4 Corporation.

5 (5) The Nuclear Regulatory Commission.

6 (6)(A) The Office of the Director of National
7 Intelligence; or

8 (B) the intelligence community (as defined in
9 section 3 of the National Security Act of 1947 (50
10 U.S.C. 3003)).

11 (7)(A) The Department of Defense; or

12 (B) the Assistant Secretary of Defense for
13 Homeland Security and America's Security Affairs.

14 (8) A State or regional energy agency.

15 (9) A national research body or academic insti-
16 tution.

17 (10) The National Laboratories.

18 **SEC. 5. REPORTS ON THE PROGRAM.**

19 (a) INTERIM REPORT.—Not later than 180 days
20 after the date on which funds are first disbursed under
21 the Program, the Director shall submit to the appropriate
22 committees of Congress an interim report that—

23 (1) describes the results of the Program;

24 (2) includes an analysis of the feasibility of
25 each method studied under the Program; and

1 (3) describes the results of the evaluations con-
2 ducted by the working group established under sec-
3 tion 4(a).

4 (b) FINAL REPORT.—Not later than 2 years after the
5 date on which funds are first disbursed under the Pro-
6 gram, the Director shall submit to the appropriate com-
7 mittees of Congress a final report that—

8 (1) describes the results of the Program;

9 (2) includes an analysis of the feasibility of
10 each method studied under the Program; and

11 (3) describes the results of the evaluations con-
12 ducted by the working group established under sec-
13 tion 4(a).

14 (c) APPROPRIATE COMMITTEES OF CONGRESS DE-
15 FINED.—In this section, the term “appropriate commit-
16 tees of Congress” means—

17 (1) the congressional intelligence committees;

18 (2) the Committee on Energy and Natural Re-
19 sources of the Senate; and

20 (3) the Committee on Energy and Commerce of
21 the House of Representatives.

22 **SEC. 6. NO NEW REGULATORY AUTHORITY FOR FEDERAL**
23 **AGENCIES.**

24 Nothing in this Act authorizes the Director or the
25 head of any other Federal agency to issue new regulations.

1 **SEC. 7. EXEMPTION FROM DISCLOSURE.**

2 Information shared by or with the Federal Govern-
3 ment or a State, tribal, or local government under this
4 Act shall be—

5 (1) deemed to be voluntarily shared informa-
6 tion; and

7 (2) exempt from disclosure under any provision
8 of Federal, State, tribal, or local freedom of infor-
9 mation law, open government law, open meetings
10 law, open records law, sunshine law, or similar law
11 requiring the disclosure of information or records.

12 **SEC. 8. PROTECTION FROM LIABILITY.**

13 (a) IN GENERAL.—A cause of action against a cov-
14 ered entity for engaging in the voluntary activities author-
15 ized under section 3—

16 (1) shall not lie or be maintained in any court;
17 and

18 (2) shall be promptly dismissed by the applica-
19 ble court.

20 (b) VOLUNTARY ACTIVITIES.—Nothing in this Act
21 subjects any covered entity to liability for not engaging
22 in the voluntary activities authorized under section 3.

23 **SEC. 9. AUTHORIZATION OF APPROPRIATIONS.**

24 (a) PILOT PROGRAM.—There is authorized to be ap-
25 propriated \$10,000,000 to carry out section 3.

1 (b) WORKING GROUP AND REPORT.—There is au-
2 thorized to be appropriated \$1,500,000 to carry out sec-
3 tions 4 and 5.

4 (c) AVAILABILITY.—Amounts made available under
5 subsections (a) and (b) shall remain available until ex-
6 pended.

○